

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MA CHRISTINA LOPEZ,

Plaintiff,

v.

MEGAN J. BRENNAN, Postmaster General,
United States Postal Service,

Defendant.

Case No. 2:19-CV-00287-JCC-BAT

**REPORT AND
RECOMMENDATION**

Before the Court is the motion to dismiss of Defendant Megan J. Brennan, Postmaster General, United States Postal Service (“USPS”). Dkt. 12. With the filing of Plaintiff’s amended complaint (Dkt. 15) and proof of service (Dkt. 17), Defendant’s grounds for dismissal are now moot and therefore, the undersigned recommends the motion to dismiss be denied.

BACKGROUND

In her original complaint, Plaintiff Ma Christina Lopez brought four causes of action against USPS, alleging violations of Title VII of the Civil Rights Act of 1964. Dkt. 1. USPS filed a motion to dismiss the complaint for lack of personal jurisdiction for failure to properly serve USPS, and to dismiss Claims Two (negligent infliction of emotional distress), Three (violation of Washington Law Against Discrimination), and Four (negligent hiring and supervision), for lack of subject matter jurisdiction. Dkt. 12. According to USPS, Claims Two, Three, and Four are barred because Title VII is Ms. Lopez’ exclusive remedy; and, Claim Three is also barred as the United States has not waived sovereign immunity for such a claim. *Id.*

1 In response, Ms. Lopez filed an amended complaint, which omits Claims Two, Three,
2 and Four. Dkt. 15. As to Claim One, her Title VII cause of action and the only claim raised in her
3 Amended Complaint, Ms. Lopez filed proof of service on USPS of the summons and original
4 complaint. Dkts. 16 and 17. USPS filed no reply to Ms. Lopez' response or proof of service. On
5 June 6, 2019, USPS filed its Answer to the Amended Complaint. Dkt. 18.

6 DISCUSSION

7 Ms. Lopez has cured the deficiencies noted in USPS' motion to dismiss with the filing of
8 her Amended Complaint, and proof of service. Therefore, the undersigned recommends the
9 motion to dismiss (Dkt. 12) be denied as moot.

10 OBJECTIONS AND APPEAL

11 This Report and Recommendation is not an appealable order. Therefore a notice of
12 appeal seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
13 assigned District Judge enters a judgment in the case. Objections, however, may be filed and
14 served upon all parties no later than **June 27, 2019**. The Clerk should note the matter for
15 **Friday, July 1**, as ready for the District Judge's consideration if no objection is filed.

16 If objections are filed, any response is due within 14 days after being served with the
17 objections. A party filing an objection must note the matter for the Court's consideration 14
18 days from the date the objection is filed and served. The matter will then be ready for the
19 Court's consideration on the date the response is due. Objections and responses shall not exceed
20 5 pages. The failure to timely object may affect the right to appeal.

21 DATED this 6th day of June, 2019.

22 

23 BRIAN A. TSUCHIDA

Chief United States Magistrate Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23